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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/782,162	02/14/2001	John A. Kupke	A34431	8337

21003 7590 12/19/2002

BAKER & BOTTS  
30 ROCKEFELLER PLAZA  
NEW YORK, NY 10112

EXAMINER
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POPOVICS, ROBERT J

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 12/19/2002

10

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/782,162

Applicant(s)

Kupler

Examiner

Popovics

Group Art Unit

1724

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE Three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

☒ Responsive to communication(s) filed on 11/13/02 (Drawings)

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

☒ Claim(s) 1-13 is/are pending in the application.

Of the above claim(s) 9-13 is/are withdrawn from consideration.

☐ Claim(s) is/are allowed.

☒ Claim(s) 1-8 is/are rejected.

☐ Claim(s) is/are objected to.

☐ Claim(s) are subject to restriction or election requirement

## Application Papers

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

☐ All ☐ Some\* ☐ None of the:

☐ Certified copies of the priority documents have been received.

☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

☐ Copies of the certified copies of the priority documents have been received

in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☒ Notice of Reference(s) Cited, PTO-892

☐ Notice of Informal Patent Application, PTO-152

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Other \_\_\_\_\_

Office Action Summary

Art Unit: 1724

## DETAILED ACTION

### *Election/Restriction*

1. Applicant's election of Group I and Species I in Paper No. 10 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

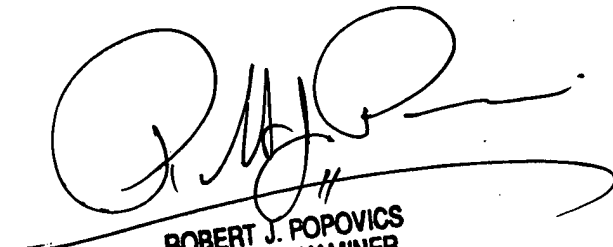
### *Claim Rejections - 35 USC § 102*

2. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Tharp (4,842,732). See diffuser plate 82. Anchor bolts 84 are seen to meet the limitation of a "rod." Regarding claim 6, see column 9, line 5.

3. Claims 1,4 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Ferri (4,882,053). See Figure 2 for example.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Popovics whose telephone number is (703) 308-0684.

RJP  
December 16, 2002



ROBERT J. POPOVICS  
PRIMARY EXAMINER